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BEFORE THE
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF:

Jose Ramirez, PROPERTY OWNER

AND

Daniel Barbieri, OPERATOR

DBA: B & B Tire and Rubber Company Inc

TPID NO: 1002464

ASSESSOR PARCEL NO: 067-060-006-0

Cleanup and Abatement

Order: No. 2011-010989-CAO

Public Resources Code section 42845

TO: Jose Ramirez, Property Owner, 3657 Bilsted Way, Sacramento, CA 95834, and
Daniel Barbieri, Operator, 4225 West Capitol Avenue, West Sacramento, CA 95691, dba B &
B Tire and Rubber Company Inc;

PLEASE TAKE NOTICE THAT:

B & B Tire and Rubber Company Inc is a Waste Tire Facility (WTF) as defined in Public
Resource Code (PRC) section 42808 and is located at 4225 West Capitol Avenue, West
Sacramento, CA 95691, Assessor Parcel No (067-060-006-0); and

The California Integrated Waste Management Board (CIWMB) which is now the
Department of Resources Recycling and Recovery (CalRecycle) has authority to act as the
enforcement agency for WTFs pursuant to PRC Section 42800 et seq., and is the enforcement
agency for this waste tire site. CalRecycle succeeded to CIWMB's authority on January 1,
2010 pursuant to PRC section 40401(a)(1); and

The Operator is a new and used tire dealer and has stored in excess of 1,500 waste
tires on said property without obtaining a "Minor Waste Tire Facility Permit," in violation of PRC
section 42834; and

1 The Yolo County Grantee inspected this site on September 9, 2010, and determined
2 that more than 1,500 waste tires were being stored on site; and

3 The Yolo County Grantee issued a Notice of Violation to the Property Owner and
4 Business Owner/Operator on September 9, 2010, requiring the tires to be removed by October
5 9, 2010; and

6 The Yolo County Grantee inspected this site on October 27, 2010, and determined that
7 more than 1,500 waste tires still remain on site; and

8 The Yolo County Grantee issued a Notice of Violation to the Property Owner and
9 Business Owner/Operator on October 27, 2010, requiring the tires to be removed by
10 November 27, 2010; and

11 The Yolo County Grantee inspected this site on January 5, 2011, and determined that
12 more than 1,500 waste tires still remain on site; and

13 The Yolo County Grantee submitted to CalRecycle a referral requesting additional
14 waste tire enforcement by CalRecycle staff; and

15 The Operator of this site has not acquired a waste tire facility permit for this site; and

16 This site is in violation of Title 14, California Code of Regulations (CCR), section
17 18420(a) - Applicability, which requires every Operator of a major or minor WTF that stores,
18 stockpiles, accumulates or discards waste tires to acquire a Permit; and

19 This site is in violation of Title 14, CCR, section 17353(a) – Vector Control, which
20 requires that all waste tires be stored in a manner which prevents the breeding and harborage
21 of mosquitoes, rodents, and other vectors; and

22 This site is in violation of Title 14, CCR, section 17354(b) – Storage of Waste Tires
23 Outdoors, which requires that all waste be separated from vegetation and other potentially
24 flammable materials by no less than 40 feet; and

25 This site is in violation of Title 14, CCR, section 17354(g) – Storage of Waste Tires
26 Outdoors, which requires that all tires be removed from rims immediately upon arrival at the
27 facility; and
28

1 Since this site is deemed a "WTF" under the PRC section 42808, this site is also subject
2 to the same safety and security measures to which a permitted facility is subject. These
3 requirements are set forth in "**Exhibit A**" to this order; and

4 CalRecycle has the authority to order WTF Operators who are in violation of the
5 aforementioned law to clean up waste tire piles, abate the effects thereof, or otherwise
6 remediate a case of threatened pollution or nuisance pursuant to PRC section 42845(a); and

7 CalRecycle has the authority to seek administrative penalties of not less than five
8 hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a
9 separate provision or, for continuing violations, for each day that the violation continues,
10 against any person who violates any provision of this chapter, or any permit, rule, regulation,
11 standard, or requirement issued or adopted pursuant to this chapter as provided in PRC
12 section 42850 and 42850.1(b)(2);

13 **THEREFORE, PURSUANT TO PRC SECTION 42845, YOU ARE ORDERED TO:**

- 14 1. Cease violation of waste tire storage laws, including the creation of illegal waste
15 tires facilities pursuant to Public Resources Code section 42808.
- 16 2. Reduce the number of waste tires on the premises to no more than 1,500 within
17 30 days from the date of service of Cleanup and Abatement Order, in
18 accordance with the following waste tire removal schedule.

19 a. Waste Tire Removal Schedule

- 20 i. All waste tires in excess of 1,500 shall be removed from the premises.
21 CalRecycle must approve the destinations of the tires to ensure that a
22 registered waste tire hauler legally transports them to an approved
23 facility.
- 24 ii. All waste tires (whole and/or tire equivalents) in excess of 1,500 shall
25 be removed by a registered waste tire hauler within 30 days from the
26 date of service of Cleanup and Abatement Order. Comprehensive Trip
27 Log (CTL) manifest form CIWMB 203 must accompany each load and
28 copies of the CTL forms must be submitted to CalRecycle within 45

1 days from the date of service of Cleanup and Abatement Order. Failure
2 to comply with this provision may result in penalties pursuant to PRC
3 section 42961.5 and 42962.

4 **PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTION 42845,**
5 **42850 AND 42850.1(b)(2):**

6 If the above actions are not completed or complied with by the specified dates,
7 CalRecycle may petition the superior court for injunctive relief to enforce this order and for civil
8 penalties in the amount of not less than \$500 and up to \$10,000 per day for each violation
9 pursuant to PRC section 42845, 42850 and 42850.1(b)(2). Liability for civil penalties may be
10 imposed in a civil action or may be imposed administratively pursuant to PRC section 42850 et
11 seq.

12 Pursuant to PRC section 42846.5, CalRecycle or its contractors may subsequently
13 enter your property for the purposes of abatement or remediation without your consent if such
14 an order setting liability is issued.

15 Failure to reduce the number of waste tires by the required date may result in
16 CalRecycle expending available funds to perform any clean up, abatement, or remedial work
17 required under the circumstances set forth in PRC section 42845 et seq.

18 You have ten (10) days from the date of service of this order to file a petition with
19 CalRecycle raising any substantial issues that are appropriate for review. CalRecycle will
20 review the petition and respond within thirty (30) days from the date of receipt by CalRecycle.
21 Regardless of whether you file a petition, the above actions, ordered pursuant to PRC section
22 42845, must be completed as ordered.

23 If CalRecycle expends funds to perform any clean up, abatement, or remedial work,
24 CalRecycle may seek cost reimbursement from the operator or property owner pursuant to
25 PRC section 42847.

26 Moreover, funds so expended by CalRecycle constitute a lien upon the real property
27 owned by any responsible party that is subject to the remedial action, pursuant to PRC section
28 42847.5.

1 Nothing in this Cleanup and Abatement Order shall constitute or be construed as a
2 satisfaction or release from liability for any conditions or claims arising as a result of past,
3 current, or future operations of Operator and/or Property Owner. Notwithstanding compliance
4 with the terms of this Order, Operator and/or Property Owner may be required to take further
5 actions as are necessary to protect public health or welfare or the environment.

6 CalRecycle shall not be liable for injuries or damages to persons or property resulting
7 from acts or omissions by Operator and/or Property Owner or related parties in carrying out
8 activities pursuant to this Order, nor shall CalRecycle be held as a party to any contract
9 entered into by Operator and/or Property Owner or their agent(s) in carrying out activities
10 pursuant to the Order.

11 This Clean Up and Abatement Order does not relieve the Operator or Property Owner
12 from complying with all other local, state, and federal requirements.

13 This Clean Up and Abatement Order may only be amended in writing by an appropriate
14 representative of CalRecycle.

15 If you have any questions concerning this Clean Up and Abatement Order, you may
16 contact Mary LeClaire of my staff at 916-341-6433.

17
18 Dated this 16 day of March, 2011



Ted Rauh
Deputy Director
Compliance and
Enforcement Division

EXHIBIT A

PUBLIC RESOURCES CODE

§ Section 42824. Transporting Waste Tires to an Unpermitted Major Waste Tire Facility

On and after September 1, 1994, it is unlawful to direct or transport waste tires to a major waste tire facility or to accept waste tires at a major waste tire facility unless the operator has obtained a major waste tire facility permit.

§ Section 42834. Transporting Waste Tires to an Unpermitted Minor Waste Tire Facility

On and after July 1, 1994, it is unlawful to direct or transport waste tires to a minor waste tire facility or to accept waste tires at a minor waste tire facility unless the operator has obtained a major waste tire facility permit.

§ Section 42850. Complies with Terms of Permit

(a) Any person who negligently violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

§ Section 42953. Contracts With Registered Waste Tire Haulers

Any person who gives, contracts, or arranges with another person to transport waste or used tires shall utilize only a person holding a valid waste and used tire hauler registration from the board, unless the hauler is exempt as specific in Section 42954.

TITLE 14, DIVISION 7, CHAPTER 3, Minimum Standards for Solid Waste Handling and Disposal

Article 5.5, Section 17351. Fire Prevention Measures.

(a) Communication equipment shall be maintained at all facilities, if they are staffed by an attendant, to ensure that the site operator can contact local fire protection authorities in the event of fire.

(b) Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. At a minimum the following items shall be maintained on site and in working order at all times:

- (1) One (1) dry chemical fire extinguisher;
- (2) One (1) two and one-half gallon water extinguisher;
- (3) One (1) pike pole or comparable pole at least 10 feet in length to separate burning from nonburning tires; and
- (4) One (1) round point and one (1) square point shovel.
- (5) One (1) dry chemical fire extinguisher with a minimum rating of 4A:40BC shall be carried on each piece of fuel-powered equipment used to handle waste tires;

(c) An adequate water supply shall be available for use by the local fire authority. The water supply shall be capable of delivering at least 1000 gallons per minute for a duration of at least three hours and at least 2000 gallons per minute for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000.

(d) All of the requirements of subsections (b) and (c) shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or

EXHIBIT A

adequate to meet the intent of these regulations for fire control and the protection of life and property. This may include the availability of earth moving equipment or other approved means to control the tire fire. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

Article 5.5, Section 17352. Facility Access and Security.

- (a) Signs--for facilities open to the public a sign shall be posted at the facility entrance stating the name of the operator, operating hours, and site rules.
- (b) Attendant--An attendant shall be present when the facility is open for business if the facility receives tires from persons other than the operator of the facility.
- (c) Access--An access road to the facility must be maintained passable for emergency equipment and vector control vehicles at all times. Unauthorized access must be strictly controlled.

Article 5.5, Section 17353. Vector Control Measures.

- (a) All waste tires shall be stored in a manner which prevents the breeding and harborage of mosquitoes, rodents, and other vectors by any of the following means:
 - (1) Cover with impermeable barriers other than soil to prevent entry or accumulation of precipitation; or
 - (2) Use of treatments or methods to prevent or eliminate vector breeding as necessary, provided the control program is approved as appropriate and effective by the local vector control authority, if such authority exists. If no local vector control authority exists, the local Environmental Health Department or other local agency with authority over vector control shall approve the vector control plan. Any control program approved by the local vector control authority shall be subject to Board concurrence at the time of issuance or renewal of the waste tire facility permit.

Article 5.5, Section 17354. Storage of Waste Tires Outdoors.

- (a) Except as provided in subsection (c) waste tires shall be restricted to individual piles, which include stacks and racks of tires that do not exceed 5,000 square feet of contiguous area. Any pile shall not exceed 50,000 cubic feet in volume nor 10 feet in height. Piles shall not exceed 6 feet in height when within 20 feet of any property line or perimeter fencing. Waste tires shall not be located within 10 feet of any property line or perimeter fencing. The minimum distance between waste tire piles and between waste tire piles and structures that are located either on-site or off-site shall be as specified in Table I.
- (b) Except as provided in subsection (c) waste tires shall be separated from vegetation and other potentially flammable materials by no less than 40 feet. Accessible fire lanes with a minimum width as specified in Table I shall be provided between tire storage units. Fire lanes shall be kept free of flammable or combustible material and vegetation. Access to fire lane(s) for emergency vehicles must be unobstructed at all times. Open flames, blow torches, or highly flammable materials, including but not limited to, tire inner tubes, are prohibited within 40 feet of a waste tire pile.

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Table I
Minimum Separation Distances (Ft.)

Length of Exposed Face (Ft.)	Tire Storage Pile Height (Ft.)		
	6	8	10
25	50	56	62
50	66	75	84
100	84	100	116
150	99	117	135
200	111	130	149
250	118	140	162

(c) All of the requirements in subsections (a) and (b) shall apply to the storage of waste tires unless, for any particular requirement, the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for the prevention of fire and the protection of life and property. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Board by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Board concurrence at the time of issuance or renewal of the permit.

(d) Surface water drainage shall be directed around and away from the waste tire storage area.

(e) Waste tires at existing waste tire facilities shall not be stored on surfaces with grades that will interfere with firefighting equipment or personnel unless mitigation measures have been approved in writing by the local fire authority, or a fire safety engineer registered by the State of California. Measures established by a fire safety engineer shall be subject to approval by the local fire authority.

(f) New waste tire facilities shall not:

- (1) Be sited in any area where they may be subjected to immersion in water during a 100-year storm unless the operator demonstrates to the Board that the facility will be designed and operated so as to prevent waste tires from migrating off site; or
- (2) Be located on sites with grades or other physical features that will interfere with firefighting equipment or personnel.

(g) Tires must be removed from rims immediately upon arrival at the facility.

(h) The site shall be designed and constructed to provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential tire fire.

EXHIBIT A

TITLE 14, DIVISION 7, CHAPTER 6, Permitting of Waste Tire Facilities and Waste Tire Hauler Registration and Tire Manifests

Article 1. Section 18420. Applicability.

(a) The operator of a waste tire facility shall acquire a waste tire facility permit in accordance with the requirements of this Chapter and PRC section 42808, unless any of the following conditions exist:

- (1) The waste tires are stored or disposed at a permitted solid waste disposal facility. The permit of the solid waste facility shall be revised pursuant to Public Resources Code (PRC) section 44014 and shall conform to the requirements of Division 7, Chapter 3, Article 5.5.
- (2) The facility is using fewer than 5,000 waste tires for agricultural purposes and the waste tires have been rendered incapable of holding accumulations of water.
- (3) The facility is storing fewer than 500 waste tires.
- (4) The facility is a tire treading business and not more than 3,000 waste tires are kept on the premises.
- (5) (Reserved)
- (6) The facility is an automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who stores waste tires on the premises of the auto dismantler for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dismantler's premises.
- (7) The facility is a tire dealer who stores waste tires on the dealer's premises for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dealer's premises.

(b) For purposes of determining the applicability of this chapter 6, altered waste tires shall be counted as passenger tire equivalents (PTE).

(c) (Reserved)

(d) For the purposes of Chapter 6, Articles 2 through 7 and Articles 9, 10 and 11 apply to operators and/or businesses described under Chapter 6, Article 1.

(e) A "used tire dealer" is only authorized to lawfully accept used or waste tires without a waste tire facility permit if the used tire dealer is in compliance with Section 17225.820, Article 4.1, Chapter 3 and has fewer than 1500 waste tires in accordance with Section 42808(c).

Article 2. Section 18423. Filing of Application

(a) Every operator of a new or existing major or minor waste tire facility shall submit to the Board a completed original and two (2) copies of the waste tire facility permit application, as specified in Article 4 of this Chapter.

(b) Upon receipt of the application, the Board shall mark the application package with the date of receipt. Within 30 days of receipt, the Board shall examine the application package to determine whether it meets the requirements contained in this chapter and either accept the application as complete or reject the application. If the Board finds the application meets the requirements, the application shall be accepted as complete. If the Board determines that the application does not conform to the applicable requirements, it shall notify the applicant in writing enumerating the grounds for rejection.

EXHIBIT A

Article 4, Section 18432. Operation Plan

(a) The Operation Plan, as required by 18431(b) shall demonstrate conformance with the technical standards contained in 14 CCR, Division 7, Chapter 3, Article 5.5.

(b) The operator shall file amendments to the Operation Plan whenever necessary to keep the information contained in it current.

Article 4, Section 18433. Emergency Response Plan

(a) The operator of the waste tire facility shall maintain a copy of the Emergency Response Plan at the facility. At the time of permit issuance the approved Emergency Response Plan shall be forwarded to the local fire authority by the permittee. The plan shall be revised as necessary to reflect any changes in the operations of the waste tire facility or requirements of the local fire authority. The local fire authority and the Board shall be notified of any changes to the plan within 30 days of the revision.

(b) The operator of the facility shall immediately notify the Board in the event of a fire or other emergency if that emergency has potential significant off-site effects. Within 30 days of any such emergency, the operator shall submit to the Board a written report describing the cause(s) of the emergency, the results of actions taken, and an analysis of the success or failure of these actions.

Article 7, Section 18447. Retention of Records

Copies of all records required to be kept under this Chapter shall be retained by the operator for three (3) years at the place of business and shall be made available at the site during normal business hours for inspection and photocopy by any representative of the Board or any individual authorized by the Board.

Article 8.5, Section 18459.2.1. Submittal of the Comprehensive Trip Log, Manifest Form, Tire Trip Log, Retreader Trip Log, and Electronic Reporting to the Board

As provided in this section, the Comprehensive Trip Log, or Manifest Form and Tire Trip Log, or Retreader Trip Log shall be submitted to the CIWMB by the waste tire generator, waste tire hauler or Retreader as specified in (a), (b), (c), or (d).

(a)(1) If the waste tire hauler chooses to use the Manifest form, the waste tire generator shall submit the completed original Manifest Form to the Board within ninety (90) days of the load shipment. The Manifest Form and Tire Trip Log shall be in the waste tire hauler's possession while transporting used or waste tires. The Manifest Form and the Tire Trip Log shall be shown upon demand to any representative of the Board, any officer of the California Highway Patrol, any peace officer, as defined in Section 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Board.

(2) If the waste tire hauler chooses to use the Tire Trip Log, the waste tire hauler shall submit the completed original Tire Trip Log to the Board within ninety (90) days of the load shipment.

(3) The Manifest Form and Tire Trip Log shall not be used after December 31, 2005.

(b) On or before January 1, 2006, the waste tire hauler shall submit a copy of the completed Comprehensive Trip Log to the Board within ninety (90) days of the load shipment. The Comprehensive Trip Log shall be in the waste tire hauler's possession while transporting used or waste tires. The Comprehensive Trip Log shall be shown upon demand to any representative of the Board, any officer of the California Highway Patrol, any peace officer, as defined in Section 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Board.

EXHIBIT A

(c) If the waste or used tire is a tire casing being shipped for inspection, retreading, or recapping and is being transported by a Retreader, the waste tire generator may substitute an invoice for the required manifest form provided by the Retreader. The invoice shall contain the date of the transaction, the name of the customer and address, the Tire Program Identification Number of the generator or end use facility, the name of the retreader and address, the quantity of tire casings shipped. A copy of the invoice and Retreader Trip Log shall be in the Retreader's possession while transporting the tire casings. The copy of the invoice and Retreader Trip Log shall be shown upon demand to any representative of the Board, any officer of the California Highway Patrol, any peace officer, as defined in Section 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Board.

(1) The Retreader shall submit the completed Retreader Trip Log to the Board within ninety (90) days of the load shipment.

(d) If approved by the Board pursuant to Public Resources Code Section 42961.5, any person that is subject to the requirements set forth in above (a), (b), or (c) may substitute their own functionally equivalent form, once approved by the Board, in lieu of the Board required form and submit an electronic report within ninety (90) days of the load shipment to the Board, in lieu of submitting the required form. The electronic report shall include all information required to be on the Comprehensive Trip Log, Retreader Trip Log, or Manifest and Tire Trip Log forms.